

REMARKS

Summary of the Office Action

Claims 1, 4-5, 7-16, 19-22 and 25 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Moore (U.S. Patent No. 6,067,622) (hereinafter "Moore") in view of Durst, Jr. et al. (U.S. Patent No. 5,113,518) (hereinafter "Durst"). Claims 2-3, 6, 17 and 23 stand rejected under U.S.C. § 103(a) as being unpatentable over Moore and Durst and further in view of Morisawa et al. (U.S. Patent No. 5,537,544) (hereinafter "Morisawa"). Claims 18 and 24 stand rejected under U.S.C. § 103(a) as being unpatentable over Moore and Durst as applied to claims 13 and 19 above, and further in view of Kato (U.S. Patent No. 6,453,233) (hereinafter "Kato"). These rejections are respectfully traversed for at least the following reasons.

Applicants respectfully submit that Moore discloses only one password generating method of generating an installing password (Fig. 2A, numerical reference 27) when an install program is executed in use of a clock date of the hardware timer. This feature is disclosed in Moore, at column 6, lines 64-65 as follows: "*In one embodiment, an "install password" is generated upon executing the install program using the clock date of the hardware timer of the computer in an algorithm incorporated into the install programming (emphasis added).*"

However, Applicants respectfully submit that in embodiments of the disclosure of the instant application the second password is recorded on the recording medium before installation of the data into the data processing apparatus as described, for example, in independent claims 1 and 25 of the instant application. Applicants respectfully submit that there is an explicit difference between the present invention and Moore at least in this regard.

Moore also discloses, at column 9, lines 23-28, "*An install password is determined at step 28 using an install password algorithm which may be incorporated into the install program.*"

The install password algorithm may use hardware-timer date information as a variable such that the install password changes as the date of the hardware-timer changes. (emphasis added).”

Applicants respectfully submit that as long as the install password algorithm is incorporated into the install program, it is impossible that the second password is recorded on the recording medium before installation of the data. In other words, it is always necessary for the install program to run before the password is generated and recorded. Therefore, this disclosure is contrary to the present invention.

Moore also discloses, at column 9, lines 26-28, “[t]he install password algorithm may use hardware-timer date information as a variable such that the install password changes as the date of the hardware-timer changes (emphasis added).” Applicants respectfully submit that in the present invention, the second password is common for a plurality of data processing apparatuses including a data processing apparatus. There is no disclosure about how the install password, disclosed in Moore, can be common for a plurality of data processing apparatuses. It is quite difficult to imagine a case where a certain hardware-time in a certain hardware incidentally matches with respect to a plurality of data processing apparatuses (hardware). Further, the install password in Moore is easily changed from time to time and cannot be determined until the hardware-time is designated. Applicants respectfully submit that because the second password in the present invention should be uniquely determined, the password generation method (i.e. one-time password) according to Moore cannot be applied to the present invention.

For at least the foregoing reasons, Applicants respectfully submit that Moore teaches away from important concepts associated of the claimed features of the instant application and,

as a result, a prima-facie case of obviousness can also not be established based on Moore, whether taken separately or in combination with the applied Durst reference.

Durst discloses a “signature” in its column 5, lines 36-53. Durst further discloses a “password” in its column 6, lines 1-29. The Examiner appears to be applying features of both the “signature” and “password” features of Durst without providing an explanation of how these features can be interrelated and applied as a single feature. To the extent that such an assertion be maintained in the next Office Communication, the Examiner is requested to specifically explain this matter.

Applicants respectfully submit that in Durst, column 5, lines 44-53, it is disclosed that “[t]he routine includes a set-up procedure to store in the software the signature of the computer system which first is used to execute the software. As a feature of this aspect of the invention, if a signature already has been stored in the software, the set-up procedure is terminated. Thereafter, whenever the software is to be executed, the signature of the computer system intended to run that software is compared to the stored signature to enable utilization of the applications software if the signatures match (emphasis added). ”

However, Applicants respectfully submit that in embodiments of the disclosure of the instant application, as described in independent claims 1 and 25, “said second password is recorded on said recording medium before installation of the data into the data processing apparatus, and changed to the first password after the installation.”

Applicants respectfully submit that as long as the “signature” is not changed but the stored signature exists and the signature is compared to the stored signature, there is no disclosure about the second password is changed to the first password after the installation. Needless to say, the “change” feature is not at all the same as, nor even similar to, the “compare” feature disclosed in Durst. Accordingly, Applicants respectfully submit that this portion of Durst

does not disclose, nor even suggest, the advantageous combinations of features currently described in independent claims 1 and 25, as discussed above.

In Durst, column 6, lines 7-13, it is disclosed that “[i]n this regard, if the user is authorized, for example if the applications software has stored therein a cryptographic key (e. g. a “password”) which must properly be entered by the user, then the signature which is stored in that software may be updated (or re-recorded) to accommodate hardware changes (emphasis added).”

Applicants respectfully submit that this portion of Durst discloses that the “password” and “signature” are different features from each other. When the password is inputted, what changes is not the “password” but the “signature.” At least in terms of this particular point, the disclosure of Durst reference is particularly different from the present invention. Further, the “signature” is not changed, but is instead updated (or re-recorded). Applicants respectfully submit that that the concept of “change” is clearly different from the concept of being “updated (or re-recorded).”

In the present invention, “the password is any one of a first password that cannot be updated and that is unique for each individual data processing apparatus”. At this point, there is a contradiction between the present invention and Durst. Further, there is completely no disclosure regarding the feature that the first password is unique for individual data processing apparatus.

Accordingly, for at least the foregoing reasons, Applicants respectfully submit that Durst teaches away from important concepts associated of the claimed features of the instant application and, as a result, a prima-facie case of obviousness can also not be established based on Durst, whether taken separately or in combination with the applied Moore reference.

Applicants respectfully submit that similar features as discussed above with regard to independent claims 1 and 25 are also included in independent claims 4, 8, 9, 11, 13 and 19.

Accordingly, similar arguments as applied above with regard to independent claims 1 and 25 also apply to claims 4, 8, 9, 11, 13 and 19.

In addition, Applicants respectfully submit that Moore and Durst are not appropriate for rejection of the present application because they disclose different technical genres from each other. Even further, Applicants respectfully submit that the judgment device and method according to the present invention are not disclosed to any extent in these references.

As to the rejection of dependent claims 5, 7, 10, 12, 14-16 and 20-22, Applicants respectfully submit that these claims are patentable at least because of their dependence from independent claims 4, 9 and 11, and the foregoing reasons. However, Applicants respectfully submit that it can also be said that the feature that “said second password is common for a plurality of said update recording media determined to be proper” is not suggested by Moore because a mere one-time password is disclosed in it, and there is no disclosure that a plurality of update recording media may have a common password.

As a result, Applicants respectfully submit that the novel combination of features described in independent claims 1, 4, 8, 9, 11, 13, 19 and 25 of the instant application can not be derived from the Office Action’s asserted combination of references for at least the foregoing reasons.

Accordingly, Applicants respectfully assert that the rejections under 35 U.S.C. § 103(a) should be withdrawn because Moore and Durst, whether taken separately or in combination with each other, do not teach or suggest each feature of independent claims 1, 4, 8, 9, 11, 13, 19 and 25. As pointed out in MPEP § 2143.0, “[t]o establish prima facie obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art. In re Royka, 409 F.2d 981, 180 USPQ 580 (CCPA 1974).” Furthermore, Applicants respectfully assert that the

remaining dependent claims are allowable at least because of their dependence from independent claim 1, 4, 9, 11, 13 or 19, and the reasons set forth above.

Also, the additionally-applied reference to Morisawa, with regard to claims 2-3, 6, 17 and 23 does not cure the deficiencies discussed above with regard to Moore and Durst. Also, the additionally-applied reference to Kato, with regard to claims 18 and 24 does not cure the deficiencies discussed above with regard to Moore and Durst.

CONCLUSION

In view of the foregoing, Applicants submit that the pending claims are in condition for allowance, and respectfully request reconsideration and timely allowance of the pending claims. Should the Examiner feel that there are any issues outstanding after consideration of this response, the Examiner is invited to contact Applicants' undersigned representative to expedite prosecution. A favorable action is awaited.

EXCEPT for issue fees payable under 37 C.F.R. § 1.18, the Commissioner is hereby authorized by this paper to charge any additional fees during the entire pendency of this application including fees due under 37 C.F.R. § 1.16 and 1.17 which may be required, including

any required extension of time fees, or credit any overpayment to Deposit Account No. 50-0573.

This paragraph is intended to be a **CONSTRUCTIVE PETITION FOR EXTENSION OF TIME** in accordance with 37 C.F.R. § 1.136(a)(3).

Respectfully submitted,

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